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January 13, 2005

McGinn & Gibb, PLLC  
8321 Old Courthouse Road  
Vienna, Virginia 22182-3817

In re Application of:  
Kenichi SATOU  
Application No. 10/091,470  
Filed: March 7, 2002

: **DECISION ON PETITION**  
: **REGARDING REQUEST TO**  
: **WITHDRAW FINALITY**  
: **UNDER 37 CFR 1.181**

This is in response to the petition filed on November 23, 2004 under 37 CFR 1.181 requesting the withdrawal of the finality of the Office action mailed September 24, 2004 as being premature.

Applicant alleges that the Final rejection mailed September 24, 2004 was premature in accordance with the guidelines of MPEP 706.07(a) in that the amendments filed on August 17, 2004 were "not directed to the purpose of overcoming the rejection" and "did not affect the Examiner's prior art search". Applicant further alleges that "no claim amendments were necessary to overcome the Examiner's rejections and that the amendments were clearly not so intended".

A review of the record reveals that since the filing of the petition, an amendment after Final Office action was filed by Applicant on December 27, 2004 in response to an interview summary mailed December 20, 2004. Furthermore, a Notice of Allowance was mailed on January 7, 2005.

Therefore since the Examiner and Applicant agreed on allowable subject matter in the case, Applicant's arguments as to the premature finality are considered moot.

The petition is **DISMISSED as moot**.

Telephone inquiries should be directed to D. Glenn Dayoan, Supervisory Patent Examiner, at (703) 308-3102.

Robert Oberleitner, Director  
Patent Technology Center 3600  
(703) 308-1134

DGD/snm: 01/13/05

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